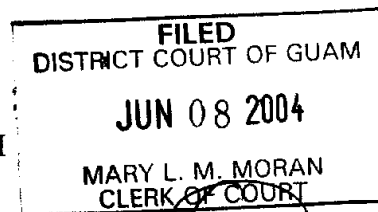


ORIGINAL

DISTRICT COURT OF GUAM
TERRITORY OF GUAM



JAE JUNE PAK,

Civil Case No. 04-00023

Plaintiff,

vs.

ORDER

GEORGE W. BUSH, BILL CLINTON,
JOHN ASHCROFT, JANET RENO, and
SIX UNKNOWN NAMES AGENTS,

Defendants.

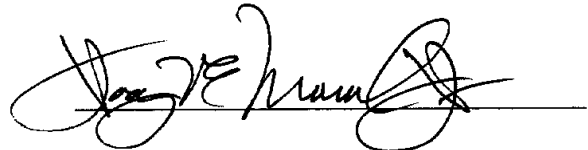
On April 27, 2004, Plaintiff Jae June Pak filed a civil rights complaint pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Agents, 403 U.S. 388 (1971).¹ Plaintiff's complaint appears to allege constitutional violations which challenge the validity of his conviction and sentence. However, "a federal prisoner who contends that his conviction is invalid because it was obtained in violation of his constitutional rights must exhaust his habeas corpus remedies before he may prosecute an action for damages to redress the alleged violation of his civil rights." Marchetti v. Bitterolf, 968 F.2d 963, 966 (9th Cir. 1992). Since Plaintiff has not

¹Plaintiff indicated on his complaint that the civil rights action is brought pursuant to both § 1983 and Bivens. However, the complaint form clearly instructed Plaintiff to choose either § 1983 or Bivens, and not both.

1 pursued habeas corpus relief, this civil rights action must be halted. Accordingly, Plaintiff's
2 civil rights action is ORDERED STAYED pending exhaustion of Plaintiff's habeas corpus
3 remedies.
4

5 The Court also notes that Plaintiff has an appeal of his conviction pending with the
6 Ninth Circuit Court of Appeals, which Plaintiff commenced on August 29, 2003. United States
7 v. Pak, C.A. No. 03-10452 (9th Cir. May 27, 2004²). Since a district court should not entertain
8 a habeas corpus petition while there is an appeal pending in the appellate court, United States
9 v. Pirro, 104 F.3d 297, 299 (9th Cir. 1997), Plaintiff must wait until after his appeal is decided
10 before he may seek habeas corpus relief.
11

12 SO ORDERED this 8th day of June, 2004.
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16 **JOAQUIN V.E. MANIBUSAN**
17 **Magistrate Judge**
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27 ²On this date, Appellant Jae June Pak's reply brief was filed in the Ninth Circuit. The Court is not aware
28 of any new developments in the appeal.